

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

DANIEL A. MILLER,

Plaintiff,

vs.

SPOKANE COUNTY JAIL
ADMINISTRATIVE DEPARTMENT,

Defendants.

NO. CV-08-217-JPH

ORDER ADOPTING REPORT AND
RECOMMENDATION AND DISMISSING
COMPLAINT

1915 (q)

Magistrate Judge Hutton filed a Report and Recommendation on September 29, 2008, recommending Daniel Miller's civil rights complaint be dismissed for failure to state a claim upon which relief may be granted. There being no objections, the Court **ADOPTS** the Report and Recommendation (Ct. Rec. 8). The complaint is **DISMISSED WITH PREJUDICE** under 28 U.S.C. §§ 1915(e) (2) and 1915A(b) (1).

Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who brings three or more civil actions or appeals which are dismissed as frivolous or for failure to state a claim will be precluded from bringing any other civil action or appeal *in forma pauperis* "unless the prisoner is under imminent danger of serious physical injury." 28

U.S.C. § 1915(g). Plaintiff is advised to read the new statutory provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff's

1 complaint may count as one of the three dismissals allowed by 28 U.S.C.
2 § 1915(g) and may adversely affect his ability to file future claims.

3 **IT IS SO ORDERED.** The District Court Executive is directed to
4 enter this Order, forward a copy to Plaintiff at his last known address,
5 enter judgment, and close the file. The District Court Executive is
6 further directed to forward a copy of this Order to the Office of the
7 Attorney General of Washington, Criminal Justice Division.

8 **DATED** this 3rd day of November 2008.

9
10 S/ Edward F. Shea
11 EDWARD F. SHEA
UNITED STATES DISTRICT JUDGE

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